

IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF OKLAHOMA

JAMES JERMAINE WOODFORK,	)	
	)	
Petitioner,	)	
	)	
vs.	)	No. CIV-21-557-C
	)	
SCOTT NUNN,	)	
	)	
Respondent.	)	

ORDER ADOPTING REPORT AND RECOMMENDATION

Petitioner filed the present action pursuant to 28 U.S.C. § 2254. Pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B), the matter was referred to United States Magistrate Judge Amanda Maxfield Green, who entered a Report and Recommendation (“R&R”) on October 26, 2022, recommending the Petition be dismissed. Petitioner has timely objected.

In light of Petitioner’s Objection to the R&R, the Court has considered the matter de novo. Petitioner brought this action seeking relief from his conviction in Oklahoma County District Court, Case No. CF-1995-1587. Judge Green correctly noted that Petitioner is not currently incarcerated pursuant to that conviction and so cannot challenge it in this proceeding. See Maleng v. Cook, 490 U.S. 488, 490-91 (1989). In his Objection, Petitioner argues Judge Green ignores the clear language of his Petition and instead focuses on an allegation in his Response to the Motion to Dismiss. Petitioner argues his Petition makes clear he is challenging his 2001 conviction.

The Court finds no merit in Petitioner’s argument. Paragraph 1(a) of the Petition asks Petitioner what conviction he is challenging. Petitioner stated: CF-1995-1587. Contrary to statements made in Petitioner’s objection to the R&R, the present action seeks to challenge a

conviction for which Petitioner is no longer in custody. Consequently, Judge Green's R&R correctly outlines the fact and applicable law and no further discussion is necessary. The R&R will be adopted.

As set forth more fully herein, the Court adopts, in full, the Report and Recommendation of the Magistrate Judge (Dkt. No. 18). The Petition (Dkt. No. 1) is DISMISSED without prejudice for lack of jurisdiction. A separate judgment will issue.

IT IS SO ORDERED this 29th day of November 2022.

  
ROBIN J. CAUTHRON  
United States District Judge